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ABSTRACT

The European Community (EC) has the power to pass laws based on the Community Treaty. Since 1989, the EC's Commission for Racial Equality has called for an amendment to the European Treaty that would provide basic protection against racial discrimination throughout the EC and legal remedies for those who suffer discrimination. Tracing the history of the foundation of the EC shows that there has been a tradition of opposition to discrimination, although provisions against racial discrimination have not been explicit. Advocates of formal provisions argue that the single market cannot function properly if people from minority ethnic groups are deterred from moving between countries because protection is weaker in one country than another. The Treaty of Amsterdam, which was accepted by member countries in June 1997, contains amendments that commit the EC to respect for human rights generally and to opposition to sex, racial, or ethnic discrimination. Before the treaty goes into effect, it must be ratified by every member government; the soonest this European legislation can be expected is 2000. Some other European actions against racial and ethnic discrimination are outlined. (SLD)

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European Union and Racial Discrimination

1998

Commission for Racial Equality (CRE)

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EUROPEAN UNION AND RACIAL DISCRIMINATION

THIS PUBLICATION:

- **provides basic information about the European Community and other European institutions**
- **looks briefly at ethnic minorities, racism and racial discrimination in European countries**
- **explains why the Treaty of Amsterdam, agreed by heads of government in June 1997, is important for racial equality.**

WHAT DO WE MEAN BY 'EUROPE'?

The term 'Europe' is used to refer to a number of related but different political areas and institutions. Geographically, the continent of Europe encompasses more than 40 nations, stretching from the Arctic almost to the north coast of Africa, and from the Atlantic to the Urals in Russia. The political institutions in this area are varied and the relationships between them are complex.

European institutions

The Council of Europe was formed by ten countries in May 1949 to promote closer European unity and to safeguard fundamental human rights. It now has 40 members (plus five with 'special guest status'), and is based in Strasbourg, France. It runs cooperative projects such as the All Different, All Equal campaign (see p6) and produces reports and recommendations for member governments. Although it has its own Parliamentary Assembly and Committee of Ministers, however, the Council has no formal powers.

Council of Europe member countries

Albania	Lithuania
Andorra	Luxembourg
Austria	Malta
Belgium	Moldova
Bulgaria	Netherlands
Croatia	Norway
Cyprus	Poland
Czech Republic	Portugal
Denmark	Romania
Estonia	Russia
Finland	San Marino
France	Slovakia
Germany	Slovenia
Greece	Spain
Hungary	Sweden
Iceland	Switzerland
Ireland	FYR Macedonia
Italy	Turkey
Latvia	Ukraine
Liechtenstein	United Kingdom

Countries with 'special guest status'

Armenia	Bosnia-Herzegovina
Azerbaijan	Georgia
Belarus	

The Council of Europe drew up the European Convention on Human Rights and Fundamental Freedoms (ECHR) in 1953, an international law which provides individuals with a remedy against member governments. All states which have ratified the ECHR (including the United Kingdom) are bound by the decisions of the European Court of Human Rights at Strasbourg. Britain signed the Convention in 1966, but it will only be incorporated into British law, and therefore become enforceable in British courts, in 1998. Although the ECHR does not prohibit racial discrimination as such, it does include a clause (Article 14) which states that all the rights and freedoms it sets out should be enjoyed without any discrimination on grounds of race, sex, colour, language, and religion.

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A police recruitment poster in Amsterdam, The Netherland ▶

▶ An Asian postman with his colleague in Oslo, Norway

The European Community (EC) is a different institution. Originally established by six countries in 1957 to create greater economic union between the peoples of Europe, it now includes 15 countries (see map, p1) and has its main bases in Brussels, Luxembourg and Strasbourg. Britain has been a member since 1973. Unlike the Council of Europe the EC does have formal powers to make laws. All members are bound by the provisions of the Community Treaty, by Community legislation and by the judgements of the EC's European Court of Justice, which is based at Luxembourg and uses judges from all member states, including Britain. The Community Treaty (formerly called the Treaty of Rome) cannot be changed without the unanimous consent of all member states.

Orde Eliason/LINK

▲ Young people playing table football in a youth centre in Lelystad, The Netherlands

The Treaty on European Union, signed at Maastricht in December 1991, and often called the **Maastricht Treaty**, came into force in November 1993. It changed some of the ways in which the EC works. The three parts of the Treaty (called the three 'pillars') are:

- the Community and all its institutions
- a common foreign and defence policy
- cooperation in justice and home affairs.

The third pillar includes matters such as asylum and immigration policy, which, under the Maastricht Treaty, were dealt with by national ministers and their civil servants and not through normal EC procedures (see below). However, under the **Amsterdam Treaty**, signed in June 1997 (but still to be ratified by individual member countries), these areas may be transferred to the EC, if all EC countries approve.

The EU Treaty also established **citizenship of the European Union** for all nationals of EC countries, in addition to each individual's national citizenship. All EU citizens have the right to vote in local and European Parliamentary elections (but not national elections) in any EC country they are living in.

European legislation

All member states of the EC take part in making Community law. The EC cannot legislate on every area of society; its laws only cover those areas that come under the Community Treaty (any matters not dealt with by the Treaty are said to be outside its 'competence'). Most European legislation cannot become law unless *all* EC countries agree to it, although some laws are passed by 'qualified majority voting' (QMV). Under the Treaty, when EC law conflicts with national law, Community law prevails.

The European Court of Justice in Luxembourg is the final court of appeal on matters of EC law.

The European Commission is the executive body of the EC, based in Brussels. Its members are appointed by member governments, but owe loyalty to the EC rather than to their member states. The Commission submits proposals for EC legislation, in the form of draft regulations or directives, to the European Parliament, and asks for Parliament's opinion.

The European Parliament is a forum for debate with few formal powers. However, Members of the European Parliament (who are elected democratically in their own countries) are consulted on, and can suggest amendments to, draft EC laws. The Parliament can also reject the EC budget, censure the European Commission, and veto or make amendments to some EC legislation. Under the Amsterdam Treaty, its powers will increase.

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The Council of Ministers of the EC takes the final decision on any legislation. It is the decision-making body of the EC, made up of ministers from each member state. Its headquarters are in Brussels.

Free movement and immigration

Any citizen of an EC member state (or Iceland or Norway) can work or set up a business or service in another member state. Under EC law, he or she can be accompanied by a spouse, dependent children under 21 and dependent elderly parents or grandparents, whether these relatives are EC nationals or not.

Free movement for workers and their families was one of the rights provided in the original Treaty of Rome in 1957. The exact rules and conditions have been laid down in EC legislation since the 1960s.

Very few migrants now enter EC countries from non-EC countries, except for asylum seekers. Many applicants for asylum are refused entry, and many only remain in their new country temporarily.

ETHNIC MINORITIES IN EUROPE

The European Commission estimates that there are roughly eight or nine million 'migrants and ethnic minorities' in a total EC population of about 370 million people, but there is no way of making an accurate estimate. Unlike Britain, most countries do not collect figures on the basis of race or ethnic origin – indeed in France it is illegal to do so.

What's more, there is no common understanding of what is meant by the term 'ethnic minority'. In many countries, the term refers to ethnic groups within their own nationalities – German speakers in north-east Italy, or the Basques in northern Spain, for example – whereas the term 'immigrant' refers to any foreign resident.

Most countries count the number of citizens and foreigners who are resident: and citizens, whatever their colour or ethnic origin, have certain rights, while foreigners do not. Yet citizens often include people who are vulnerable to racism and discrimination, such as people of Moroccan descent in Belgium, whereas 'foreigners' can include groups who are not vulnerable, such as Americans in the Netherlands.

It is said that there are about 16 million foreigners resident in EC countries, but this includes nationals of EC countries who have gone to live in other EC countries, such as Britons living in France, as well as what are called 'third country nationals', non-EC nationals living in an EC country and legally admitted as residents, such as Turks in Germany, or Colombians in Britain.

It is estimated that there are over nine million third country nationals living in the EC. Numerically, the most important third country nationals in the EC come from Turkey, Morocco, Algeria, Tunisia and the countries of the Indian subcontinent and the Middle East. There are immigrants from the Caribbean and Latin America in France, the Netherlands, Spain and Portugal as well as in Britain. There are also Yugoslavs, Poles, Vietnamese and people from many sub-Saharan African countries in the EC.

In Britain, most ethnic minority residents are full British citizens and EC nationals, with the same rights as white Britons. The largest minority ethnic groups in Britain are people of Irish descent, south Asians and people of Caribbean origin.

RACISM AND DISCRIMINATION

Who suffers?

Targets of racial prejudice and discrimination include both EC nationals, whether in their own countries or in other EC countries, and third country nationals.

Citizens of EC countries living in their own countries may be seen as ethnically, racially, culturally or nationally 'different' – south Asian British citizens in Britain, for example, or French citizens of Algerian origin in France. In Britain it is estimated that between five and six per cent of the population are from non-white ethnic groups. Citizens of EC countries who have moved to another member state may face prejudice and discrimination there – French or German citizens working in Britain may face xenophobia, for example.

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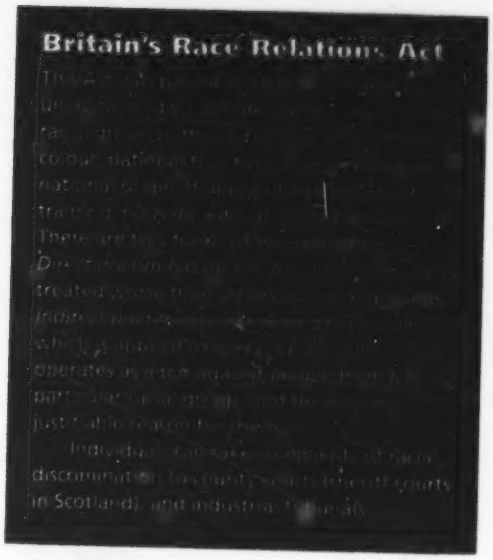

Forms of discrimination

In Britain we use the term 'racism' to cover prejudice and discrimination on grounds of race, colour, national or ethnic origin, or nationality; and we have a specific legal definition of racial discrimination (see box).

But many people from other European countries would not understand our use of the term; for them 'race' does not cover citizenship, or national or ethnic origin. In Germany the most serious discrimination is against 'foreigners', in France it is against North African Muslims, in northern Italy it can be against southern Italians as well as Africans or Gypsies.

However, although the language may vary, the phenomenon is still the same. The most serious worry for minorities in all countries is the risk of racially motivated violence, although discrimination in employment, health care, education and services, as well as day-to-day racial prejudice during ordinary social contact, are also common concerns. These problems do not affect all minority groups equally, and their incidence varies between countries.

◀ Turkish workers laying tar in Berlin, Germany

▲ A woman in the Arab quarter in Marseilles, France

Laws against discrimination

Levels of protection against racial discrimination vary greatly at national level. In each country there is a different legal framework concerning human rights and citizens' rights. The Netherlands has a substantial body of law against racial discrimination. Belgium has a law similar to Britain's, and a Centre for Equal Opportunities and the Struggle against Racism, similar to the Commission for Racial Equality. In France racial discrimination is a criminal offence, but the law is very rarely enforced, because this depends on the actions of police and prosecutors. Germany has no anti-discrimination law, but there is much voluntary activity against racism and strong government concern to deal with extreme right-wing groups.

The member governments of the EC have often joined together to condemn racism in formal declarations, but until 1997 they had never established a legal remedy against racism at European level.

EUROPEAN LAWS AGAINST DISCRIMINATION

European Community

As mentioned above, the European Community has the power to pass laws based on the Community Treaty. Since 1989 the CRE has argued that there should be an amendment to the European Treaty which would provide basic protection against racial discrimination throughout the EC, and a legal remedy for individuals who suffer discrimination. For many years voluntary associations, church groups, trade unions and others have been urging the EC to adopt a 'race amendment'. It has also been argued that the single market cannot function properly if people from minority ethnic groups are deterred from moving between countries because protection is weaker in one than in another.

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Young people in Stockholm, Sweden ▶

The Starting Line

In 1993 a small, informal group of experts from six EC countries produced a proposal for an EC directive against racial and religious discrimination. A directive is a form of EC legislation which instructs all member states to pass their own laws to meet the goals set out in the directive within a certain time limit. This allows each country to take account of its own particular situation and legal framework. (An EC Regulation, on the other hand, applies the same terms to all member states.) The group, which included a representative of the CRE, studied problems in detail and considered the likely responses in all member states, before producing its text, which was called 'The Starting Line'.

The Starting Line has twice been endorsed by votes in the European Parliament, but the European Commission felt unable to draft legislation until the Treaty had been changed by an amendment which specifically empowered the EC to take action against racism. Voluntary groups throughout the EC lobbied intensely for such a change, demanding urgent action.

A migrant worker completing his papers at Hamburg railway station, Germany ▼

Kahn Commission

New impetus was given to these demands when, in 1994, the EC itself set up a committee (called the Kahn Commission) to consider a Europe-wide strategy against racism. In 1995 the Kahn Commission proposed a text for an amendment and this was referred to at a series of inter-governmental conferences, which, in 1996, began to draft a new set of amendments to the Treaty. These drafts were discussed by ministers and resulted in the new Treaty of Amsterdam.

The Treaty of Amsterdam and Article 13

The Treaty of Amsterdam was agreed by member governments in June 1997. It included a series of amendments to the European Treaties for tackling unemployment, enlarging the EC and reforming the EC's institutions. There was also a new set of amendments under the title 'freedom, security and justice', which committed the EC to respect for human rights generally, and included Article 13, which reads:

> Without prejudice to the other provisions of this Treaty and within the limits of the powers conferred by it upon the Community, the Council, acting unanimously on a proposal from the Commission and after consulting the European Parliament, may take appropriate action to combat discrimination based on sex, racial or ethnic origin, religion and belief, disability, age or sexual orientation.

Article 13 allows European action against discrimination, but does not require it. Any action must follow specific legislation on discrimination which will have to be agreed unanimously, and this can only be done once the Treaty has come into force. Before it does, the Treaty must be ratified separately by every member country, either by a vote in Parliament or by a referendum. (The mechanism used depends on each country's constitution; in Britain, Parliament will decide.)

It took two years for the Maastricht Treaty to be ratified by all member states, and it did not come into force until November 1993. The Amsterdam Treaty may take just as long, so it is very difficult to say when we will have European legislation on racism; the soonest we can expect it is 2000.

Among the other changes to the Treaty signed in Amsterdam was an agreement that there would be cooperation between the police and judicial authorities of all countries to prevent and combat racism and xenophobia. It was also agreed that matters of freedom of movement, and asylum and immigration, could be moved from the third pillar to the first, if there was unanimous agreement to do so – at the moment there is no immediate prospect of this happening.

OTHER EUROPEAN ACTION AGAINST RACISM

European Year Against Racism

The European Parliament has produced several reports on racism and the need to tackle it. The European Commission produced a report and recommendations for action in 1996. One of its proposals, later agreed by the Council of Ministers, was to make 1997 the European Year Against Racism, Xenophobia and Anti-Semitism (EYAR).

The main objectives of EYAR were to increase awareness, understanding and appreciation of cultural and ethnic diversity, and to develop strategies

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to help combat racism throughout Europe. Europe-wide activities and publicity were coordinated from the European Commission, while each member state had its own national coordinating committee to organise and promote its own initiatives.

All Different, All Equal

The All Different All Equal youth campaign against racism, xenophobia and anti-Semitism was organised by the Council of Europe in 1995/6 following a commitment in 1993 by the heads of government of all member states to mobilise public opinion against racism. It involved Europe-wide and nationally coordinated anti-racist activities for young people in over 30 countries.

A new monitoring centre

A few weeks before the Amsterdam meeting, member states approved an EC law to set up a European Monitoring Centre for Racism and Xenophobia. This centre will gather information on race and racism across Europe and make this available to the EC and its member states. It will analyse the causes and effects of racism and xenophobia, and provide examples of good practice in combating it.

A nurse in Oslo, Norway ▼

Members of its management board will be drawn from all member states, and there will be representatives of the European Commission, the European Parliament and the Council of Europe. Its headquarters will be in Vienna.

Non-governmental organisations (NGOs)

NGOs in member countries have played an important part in lobbying for action on racism. Among these, the Migrants Forum, based in Brussels and funded by the European Commission, is regularly consulted by European institutions. But many other groups, large and small, will continue to play a part in combating racism in Europe now that the new Treaty has been agreed.

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Migration News Sheet
A monthly information bulletin on immigrants, refugees and ethnic minorities, the *Migration News Sheet* is published by the European Information Network (EIN) and is available for an annual subscription of £110 from:
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The Commission for Racial Equality is working for a just society which gives everyone an equal chance to learn, work and live free from discrimination and prejudice and from the fear of racial harassment and violence.

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